IN THE HIGH COURT OF JUDICATUE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Civil Revision Application No. 67/2007

Shivmangal K. Dubey, Nagpur and another
vs.
Prashant Narayant Shivankar, Nagpur and others.

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Courts or Judge's Orders.

Shri Sudheer S. Voditel, Advocate for applicants.
Shri Rahul Tajne, Advocate for respondents.

CORAM : A. B. CHAUDHARI, J.
Dated : 18/09/2007

This civil revision application is directed against an order made by the trial Court rejecting application below exhibits No. 14 & 18, made by the applicants under Order 7 Rule 11, on the ground that the suit did not disclose the cause of action.

Mr. Voditel, learned counsel for the applicants vehemently argued and submitted that the suit filed against the applicants did not disclose the cause of action and on the contrary being the same was illusory. He then argued citing the decision of Supreme Court in the case of **T. Arivandandam ..vs.. T. V. Satyapal and another**

reported in (1977) 4 Supreme Court Cases 467 that the trial Court ought to have thrown out the suit the same being vexatious and the Trial Court ought not have been merciful in entertaining the suit. He, therefore, prayed for dismissal of the suit for the aforesaid reasons.

Per contra, Mr. Tajne, learned counsel for the respondents/plaintiffs argued that the trial Court has taken a note of pleadings of the parties and in particular pleadings in the plaint and as there is a material on record to find out that there is a cause of action for receiving the suit and entertaining the same and the exercise undertaken by the trial Court is legal, correct and proper and therefore, the impugned order can not be interfered with.

Having heard rival parties and having gone through the impugned order, I find that the Trial Court has prima facie found that factually there is a cause of action which exists. At any rate, the parties are entitled to lead evidence documentary as well as oral evidence to support the contentions that whether there exists really a cause of action or not. It would be premature, therefore, at this stage to say that there is no cause of action or that the same is illusion.

For these reasons, therefore, I do not find

any fault with the impugned order, the impugned orders below exhibits No. 14 & 18 are confirmed. The civil revision application is dismissed.

JUDGE

JSA.